

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

IN RE:

GWENDOLYN ANTIONETTE PLEASANT-GREEN AKA
GWENDOLYN A. PLEASANT AKA GWENDOLYN GREEN

Debtor

Address: 13080 Ladysmith Rd

Ruther Glen, VA 22546

Last four digits of Social Security No.(s): XXX-XX-5076

BCN #: 17-35694-KLP

Chapter: 13

NOTICE OF MOTION AND HEARING

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not wish the Court to grant the relief sought in this motion, or if you want the Court to consider your views on this motion, then within fourteen (14) days from the date of service of this motion, you must file a written response explaining your position with the Court at the following address: Clerk of Court, United States Bankruptcy Court, 701 East Broad Street, Room 4000, Richmond, VA 23219-3515, and serve a copy on the Movant. Unless a written response is filed and served within this fourteen day period, the Court may deem any opposition waived, treat the motion as conceded, and issue an Order granting the requested relief without further notice or hearing.

If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the expiration of the fourteen day period.

You may attend the preliminary hearing scheduled to be held on: November 14, 2018 at 9:00 AM in Courtroom 5100, United States Bankruptcy Court, 701 East Broad Street, Richmond, VA 23219.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion and may enter an Order granting the requested relief.

SHAPIRO & BROWN, LLP
ATTORNEYS FOR THE MOVANT

Dated: September 28, 2018

/s/ Mary F. Balthasar Lake

BY: Gregory N. Britto, Esquire VSB #23476
William M. Savage, Esquire VSB #26155
Malcolm B. Savage, III, Esquire VSB #91050
Thomas J. Gartner, Esquire VSB #79340
Mary F. Balthasar Lake, Esquire VSB #34899
Matthew Beddingfield, Esquire VSB #87305
SHAPIRO & BROWN, LLP
501 Independence Parkway, Suite 203
Chesapeake, Virginia 23320
(703) 449-5800
VABECF@logs.com

CERTIFICATE OF SERVICE

I certify that I have this 28th day of September, 2018, electronically transmitted and/or mailed by first class mail, postage pre-paid, a true copy of the foregoing Notice of Motion to the following:

JULIA BONHAM ADAIR
HATHAWAY ADAIR, P.C
710 N. HAMILTON STREET
SUITE 100
Richmond, VA 23221

Suzanne E. Wade
P.O. Box 1780
Richmond, VA 23218-1780

Gwendolyn Antionette Pleasant-Green
13080 Ladysmith Rd
Ruther Glen, VA 22546

/s/ Mary F. Balthasar Lake

Gregory N. Britto, Esquire VSB #23476
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Matthew Beddingfield, Esquire VSB #87305

United States Bankruptcy Court
Eastern District of Virginia
Richmond Division

In Re:
Gwendolyn Antionette Pleasant-Green a/k/a
Gwendolyn A Pleasant a/k/a Gwendolyn
Green

BCN#: 17-35694-KLP
Chapter: 13

Debtor

U.S. Bank National Association, as Trustee
for MASTR Asset Backed Securities Trust
2006-HE5 Mortgage Pass-Through
Certificates, Series 2006-HE5
or present noteholder,

Motion for Order Granting Relief from
Automatic Stay under 11 USC §362

Movant/Secured Creditor,

v.

Gwendolyn Antionette Pleasant-Green

Debtor

and

Suzanne E. Wade

Trustee

Respondents

U.S. Bank National Association, as Trustee for MASTR Asset Backed Securities Trust
2006-HE5 Mortgage Pass-Through Certificates, Series 2006-HE5, and/or present noteholder,
(hereinafter “the Movant”), alleges as follows:

1. That the bankruptcy court has jurisdiction over this contested matter pursuant to
28 U.S.C. § 157 and § 1334 and 11 U.S.C. § 362; Federal Rule of Bankruptcy Procedure 9014;
and Local Bankruptcy Rule 4001(a)-1.

2. That the above named Debtor filed a Chapter 13 Petition in Bankruptcy with this
Court on November 15, 2017.

3. That Suzanne E. Wade has been appointed by this Court as the Chapter 13
Trustee in this instant Bankruptcy proceeding.

4. That the subject Deed of Trust secures a parcel of real property (hereinafter “the
Property”) with the address of 13080 Ladysmith Road, Ruther Glen, VA 22546 and more

particularly described in the Deed of Trust dated July 25, 2006 and recorded as Deed Book 851, Page 485 among the land records of the said city/county, as:

ALL THAT CERTAIN LOT, PIECE OF PARCEL OF LAND WITH THE IMPROVEMENTS THEREON AND APPURTENANCES THERETO BELONGING KNOWN AS NUMBER 13080 LADYSMITH ROAD, OR IN ANYWISE THEREUNTO APPERTAINING, LYING, AND BEING AND SITUATE IN MADISON DISTRICT, CAROLINE COUNTY, VIRGINIA, ON STATE ROUTE 639 AND CONTAINING TWO (2.000) ACRES ALL AS SHOWN ON SURVEY OF LOUIS TERRELL, LAND SURVEYOR, DATED NOVEMBER 20, 1996, ENTITLED "PLAT OF 2.000 ACRES BOUNDARY LINE ADJ LOCATED ABOUT ONE MILE N.W. POPLAR INN ON ROUTE 639 SURVEYED FOR GWENDOLYN PLEASANT," RECORDED APRIL 1997 IN PLAT CABINET B, PAGE 960-1, IN THE CLERKS OFFICE, CIRCUIT COURT, CAROLINE COUNTY, VIRGINIA, AND TO WHICH PLAT REFERENCE IS HEREBY MADE FOR A MORE PARTICULAR METES AND BOUNDS DESCRIPTION OF SAID PROPERTY.

BEING THE SAME PROPERTY CONVEYED TO GWENDOLYN A. PLEASANT, BY VIRTUE OF A DEED, DATED 07/31/1998, AND FILED FOR RECORD ON 08/11/1998 IN DEED BOOK 496, PAGE 739 IN THE CLERKS OFFICE CIRCUIT COURT, CAROLINE COUNTY, VIRGINIA.

5. Ocwen Loan Servicing, LLC services the underlying mortgage loan and note for the property referenced in this Motion for: U.S. Bank National Association, as Trustee for MASTR Asset Backed Securities Trust 2006-HE5 Mortgage Pass-Through Certificates, Series 2006-HE5 (hereinafter, "noteholder") and is entitled to proceed accordingly. Should the Automatic Stay be lifted and/or set aside by Order of this Court or if this case is dismissed or if the Debtor obtains a discharge and a foreclosure action is commenced or recommenced, said foreclosure action will be conducted in the name of U.S. Bank National Association, as Trustee for MASTR Asset Backed Securities Trust 2006-HE5 Mortgage Pass-Through Certificates, Series 2006-HE5. The noteholder has the right to foreclose because (check the applicable below):

___ Noteholder is the owner of the note.

X Noteholder is the original mortgagee or beneficiary or assignee of the security instrument for the referenced loan. Noteholder directly or through an agent has possession of the promissory note and the promissory note is either made payable to Noteholder or has been duly endorsed.

___ Noteholder is the original mortgagee or beneficiary or assignee of the security instrument for the referenced loan. Noteholder directly or through an agent, has possession of the promissory note and will enforce the promissory note as transferee in possession.

___ Noteholder is the original mortgagee or beneficiary or assignee of the security instrument for the referenced loan. Noteholder is unable to find the promissory note and will seek to prove the promissory note through the filing of a lost note affidavit.

___ Noteholder is the successor trustee and transferee in possession of the security instrument for the referenced loan.

6. That the Movant is informed and believes, and, based upon such information and belief, alleges that title to the Property is currently vested in the name of the Debtor.

7. That the Debtor is in default with regard to payments which have become due under the terms of the Note and Deed of Trust since the filing of the Chapter 13 petition.

As of September 26, 2018, the Debtor is due for:

- o 3 post-petition monthly payments from July 2018 through September 2018 of \$933.46 each which were to be paid directly to Movant;
- o Suspense Balance of - \$73.08
- o Proof of Claim fee of \$500.00 (SPOC filed 5/4/2018)
- o Payment History Review fee of \$250.00 (SPOC filed 5/4/2018)
- o Review of Plan and Notice of Appearance fee of \$150.00 (SPOC filed 5/4/2018)
- o In addition to the post-petition default listed above Ocwen Loan Servicing LLC has also incurred additional fees for drafting and filing the Motion for Relief in the amounts of \$850.00 and \$181.00 and those are also now due.

8. As of September 26, 2018, that the principal balance on the said Note is \$124,826.05.

9. That a Proof of Claim for pre-petition arrears was filed with this Court on Movant's behalf on March 23, 2018, in the amount of \$12,693.47.

10. That the Movant has elected to initiate foreclosure proceedings on the Property with respect to the Deed of Trust, but is prevented by the Automatic Stay from going forward with these proceedings.

11. That continuation of the automatic stay pursuant to 11 U.S.C. § 362(a) will work real and irreparable harm and deprive the Movant of the adequate protection to which it is entitled under 11 U.S.C. § 362.

12. That the Movant has requested that the Court hear this matter on November 14, 2018 at 9:00 AM.

WHEREFORE, Movant prays for an order granting relief from the Automatic Stay in order to pursue its remedies under the terms of its Note and Deed of Trust, that the fourteen (14) day waiting period imposed by F.R.B.P. 4001(a)(3) be waived, for its attorneys fees' and costs expended, and for such other and further relief as the Court and equity deem appropriate.

SHAPIRO & BROWN, LLP
ATTORNEYS FOR THE MOVANT

Dated: September 28, 2018

/s/ Mary F. Balthasar Lake
BY: Gregory N. Britto, Esquire
VSB #23476
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Chesapeake, Virginia 23320
(703) 449-5800
VABECF@logs.com

Certificate of Service

I certify that I have this 28th day of September, 2018, electronically transmitted and/or mailed by first class mail, true copies of the Motion for Relief from the Automatic Stay and Notice of Motion and Hearing to each party required to receive notice.

JULIA BONHAM ADAIR
HATHAWAY ADAIR, P.C
710 N. HAMILTON STREET
SUITE 100
Richmond, VA 23221

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